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## BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

SUSAN BITTER SMITH - Chairman  
BOB STUMP  
BOB BURNS  
DOUG LITTLE  
TOM FORESE

IN THE MATTER OF THE APPLICATION OF  
LIBERTY UTILITIES (BLACK MOUNTAIN  
SEWER) CORP., AN ARIZONA CORPORATION,  
FOR AUTHORITY TO ISSUE EVIDENCE OF  
INDEBTEDNESS IN AN AMOUNT NOT TO  
EXCEED \$3,400,000.

DOCKET NO. SW-02361A-15-0206

ORIGINAL

IN THE MATTER OF THE APPLICATION OF  
LIBERTY UTILITIES (BLACK MOUNTAIN  
SEWER) CORP., AN ARIZONA CORPORATION,  
FOR A DETERMINATION OF THE FAIR VALUE  
OF ITS UTILITY PLANTS AND PROPERTY AND  
FOR INCREASES IN ITS WASTEWATER RATES  
AND CHARGES FOR UTILITY SERVICE BASED  
THEREON.

DOCKET NO. SW-02361A-15-0207

**RATE CASE PROCEDURAL ORDER**  
(Schedules Hearing)**BY THE COMMISSION:**

On June 22, 2015, Liberty Utilities (Black Mountain Sewer) Corp. ("Liberty") filed with the Arizona Corporation Commission ("Commission"), in Docket No. SW-02361A-15-0206, an application requesting authority from the Commission to issue evidence of indebtedness in a total amount not to exceed \$3,400,000 ("Finance Docket").

Also on June 22, 2015, Liberty filed with the Commission, in Docket No. SW-02361A-15-0207, an application requesting that the Commission establish the fair value of its plant and property used for the provision of public wastewater utility service and, based on such finding, approve permanent rates and charges for utility service designed to produce a fair return thereon using a test year ending December 31, 2014 ("Rates Docket").

On June 23, 2015, Liberty filed Motions to Consolidate in both the Finance Docket and the Rates Docket. Liberty states that, by consolidating both proceedings, resources would be better utilized as both dockets are "inextricably linked."

On July 6, 2015, by Procedural Order, the above captioned dockets were consolidated.

1 On July 15, 2015, Liberty filed an Amendment to its Application.

2 On July 16, 2015, the Commission's Utilities Division ("Staff") issued a Letter of Sufficiency  
3 stating that Liberty's application had met the sufficiency requirements of Arizona Administrative  
4 Code ("A.A.C.") R14-2-103 and that Liberty had been classified as a Class C utility.

5 On July 17, 2015, Residential Utility Consumer Office ("RUCO") filed an Application to  
6 Intervene.

7 On July 21, 2015, CP Boulders, LLC dba the Boulders Resort ("the Boulders") filed an  
8 Application to Intervene.

9 There have been no objections to RUCO's or the Boulders' requests to intervene.

10 Pursuant to A.A.C. R14-3-109, the Commission issues this Procedural Order to govern the  
11 preparation and conduct of this proceeding.

12 IT IS THEREFORE ORDERED that the **hearing in this matter shall commence on**  
13 **January 12, 2016, at 10:00 a.m.**, at the Commission's offices, 1200 West Washington Street,  
14 **Hearing Room No. 1**, Phoenix, Arizona 85007.

15 IT IS FURTHER ORDERED that a **pre-hearing conference shall be held on January 7,**  
16 **2016, at 10:00 a.m.**, at the Commission's offices.

17 IT IS FURTHER ORDERED that **RUCO and the Boulders are hereby granted**  
18 **intervention.**

19 IT IS FURTHER ORDERED that the **Staff Report/direct testimony and associated**  
20 **exhibits** to be presented at hearing by **Staff** shall be reduced to writing and filed on or before  
21 **November 18, 2015.**

22 IT IS FURTHER ORDERED that the **direct testimony and associated exhibits** to be  
23 presented at hearing by an **intervenor** shall be reduced to writing and filed on or before **November**  
24 **18, 2015.**

25 IT IS FURTHER ORDERED that the **rebuttal testimony and associated exhibits** to be  
26 presented at hearing by **Liberty** shall be reduced to writing and filed on or before **December 4, 2015.**

27 IT IS FURTHER ORDERED that the **surrebuttal testimony and associated exhibits** to be  
28 presented at hearing by **Staff or intervenors** shall be reduced to writing and filed on or before

1 **December 18, 2015.**

2 IT IS FURTHER ORDERED that the **rejoinder testimony and associated exhibits** to be  
3 presented at hearing by **Liberty** shall be reduced to writing and filed on or before **January 4, 2016.**

4 IT IS FURTHER ORDERED that **all testimony** filed shall include a **table of contents** listing  
5 the issues discussed.

6 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m.** on the date the  
7 filing is due, unless otherwise indicated.

8 IT IS FURTHER ORDERED that **the parties shall prepare, jointly or individually, and**  
9 **bring to the pre-hearing conference, copies of an issues matrix/matrices** setting forth all disputed  
10 issues in the case, the position of each party on each disputed issue, whether the disputed issue  
11 remains in dispute or has been resolved, and the manner in which it was resolved.

12 IT IS FURTHER ORDERED that **any objections to prefiled testimony or exhibits shall be**  
13 **made before or at the January 7, 2016,** pre-hearing conference.

14 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-  
15 105, except that all motions to intervene must be filed on or before **October 9, 2015.**

16 IT IS FURTHER ORDERED that any **objections to intervention** shall be filed on or before  
17 **October 30, 2015.**

18 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and  
19 regulations of the Commission, except that until **November 25, 2015,** any objection to discovery  
20 requests shall be made within 7 calendar days of receipt<sup>1</sup> and responses to discovery requests shall be  
21 made within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made  
22 within 5 calendar days and responses shall be made within 7 calendar days. The response time may  
23 be extended by mutual agreement of the parties involved if the request requires an extensive  
24 compilation effort.

25 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a  
26 receiving party requests service to be made electronically, and the sending party has the technical

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28 <sup>1</sup> The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. Arizona time will be considered as received the next business day.

1 capability to provide service electronically, service to that party shall be made electronically.

2 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
3 discovery, any party seeking resolution of a discovery dispute may telephonically contact the  
4 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery  
5 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and  
6 that the party making such a request shall forthwith contact all other parties to advise them of the  
7 hearing date and shall at the hearing provide a statement confirming that the other parties were  
8 contacted.<sup>2</sup>

9 IT IS FURTHER ORDERED that any **substantive corrections, revisions, or supplements**  
10 **to prefiled testimony**, with the exception of rejoinder testimony, shall be reduced to writing and filed  
11 no later than five calendar days before the witness is scheduled to testify.

12 IT IS FURTHER ORDERED that any motion filed in this matter, other than a motion to  
13 intervene, that is not ruled upon by the Commission within 20 calendar days of the filing date of the  
14 motion shall be deemed denied.

15 IT IS FURTHER ORDERED that any response to a motion, other than a motion to intervene,  
16 shall be filed within five calendar days of the filing date of the motion.

17 IT IS FURTHER ORDERED that any reply related to a motion shall be filed within five  
18 calendar days of the filing date of the response to the motion.

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28 <sup>2</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

IT IS FURTHER ORDERED that **Liberty shall provide public notice** of the hearing in this matter, in the following form and style, with the heading in no less than 12-point bold type and the body in no less than 10-point regular type:

**PUBLIC NOTICE OF HEARING ON THE  
APPLICATIONS OF LIBERTY UTILITIES  
(BLACK MOUNTAIN SEWER) CORP.  
FOR APPROVAL TO INCUR DEBT & FOR A RATE INCREASE  
(DOCKET NOS. SW-02361A-15-0206 AND SW-02361A-15-0207).**

**Summary**

On June 22, 2015, Liberty Utilities (Black Mountain Sewer) Corp. ("Liberty") filed with the Arizona Corporation Commission ("Commission"), in Docket No. SW-02361A-15-0206, an application requesting authority from the Commission to issue evidence of indebtedness in a total amount not to exceed \$3,400,000 ("Finance Docket"). Also on June 22, 2015, Liberty filed with the Commission, in Docket No. SW-02361A-15-0207, an application requesting that the Commission establish the fair value of its plant and property used for the provision of public wastewater utility service and, based on such finding, approve permanent rates and charges for utility service designed to produce a fair return thereon using a test year ending December 31, 2014 ("Rates Docket").

Liberty requests authorization to increase its rates to generate total revenues of \$2,659,788. This would constitute an increase in revenues by \$417,940, or 18.75 per cent over test year revenues of \$2,239,848. For information about how Liberty's revenue increase would affect your individual bill, you may contact Liberty at [LIBERTY INSERT APPROPRIATE CONTACT INFORMATION HERE].

The Commission's Utilities Division ("Staff") is in the process of auditing and analyzing the applications, and has not yet made any recommendations regarding Liberty's proposed rate increase or financing application. The Commission will determine the appropriate relief to be granted based on the evidence of record in the proceeding. **THE COMMISSION IS NOT BOUND BY THE PROPOSALS MADE BY LIBERTY, STAFF, OR ANY INTERVENORS; THEREFORE, THE FINAL RATES APPROVED BY THE COMMISSION MAY DIFFER FROM AND MAY BE HIGHER OR LOWER THAN THE RATES REQUESTED BY LIBERTY OR RECOMMENDED BY OTHER PARTIES.**

**How You Can View or Obtain a Copy of the Rate Proposal**

Copies of the application and proposed rates are available from Liberty [LIBERTY INSERT HOW AND WHERE AVAILABLE] and at the Commission's Docket Control Center at 1200 West Washington, Phoenix, Arizona, for public inspection during regular business hours, and on the Internet via the Commission's website (www.azcc.gov) using the e-Docket function.

**Arizona Corporation Commission Public Hearing Information**

The Commission will hold a hearing on these matters beginning **January 12, 2016, at 10:00 a.m.**, at the Commission's offices Hearing Room No. 1, 1200 West Washington

1 Street, Phoenix, Arizona 85007. Public comments will be taken on the first day of  
2 hearing.

3 Written public comments may be submitted by mailing a letter referencing Docket  
4 Nos. SW-02361A-15-0206/15-0207 to Arizona Corporation Commission, Consumer  
5 Services Section, 1200 West Washington, Phoenix, AZ 85007, or by submitting  
6 comments on the Commission's website ([www.azcc.gov](http://www.azcc.gov)) using the "Submit a Public  
7 Comment" function. If you require assistance, you may contact the Consumer  
8 Services Section at 602-542-4251 or 1-800-222-7000.

#### 6 About Intervention

7 The law provides for an open public hearing at which, under appropriate  
8 circumstances, interested persons may intervene. An interested person may be granted  
9 intervention if the outcome of the case will directly and substantially impact the  
10 person, and the person's intervention will not unduly broaden the issues in the case.  
11 Intervention, among other things, entitles a party to present sworn evidence at hearing  
12 and to cross-examine other parties' witnesses. However, failure to intervene will not  
13 preclude any interested person or entity from appearing at the hearing and providing  
14 public comment on the application or from filing written comments in the record of  
15 the case.

16 To request intervention, you must file **an original and 13 hard copies** of a written  
17 request to intervene with Docket Control, 1200 West Washington Street, Phoenix, AZ  
18 85007, **no later than October 9, 2015**. You also **must** serve a copy of the request to  
19 intervene on each part of record, on the same day that you file the request to intervene  
20 with the Commission. Information about intervention and sample intervention  
21 requests are available on the Commission's website ([www.azcc.gov](http://www.azcc.gov)) using the  
22 "Intervention in Utility Cases" link.

23 Your request to intervene must contain the following:

- 24 1. Your name, address, and telephone number and the name, address, and  
25 telephone number of any person upon whom service of documents is to be  
26 made, if not yourself;
- 27 2. A reference to **Docket Nos. SW-02361A-15-0206/15-0207**;
- 28 3. A short statement of your interest in the proceeding (e.g., a customer or  
potential customer of Liberty, a member or shareholder of Liberty, etc.) and  
how you will be directly and substantially affected by the outcome of the case,  
and why your intervention will not unduly broaden the issues in the case;
4. A statement certifying that a copy of the motion to intervene has been mailed  
to Liberty or its counsel and to all parties of record in the case; and
5. If you are not represented by an attorney who is an active member of the  
Arizona State Bar, and is not an individual representing himself or herself,  
information and any appropriate documentation demonstrating compliance  
with Arizona Supreme Court Rules 31, 38, and 42, as applicable.

26 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except  
27 that all motions to intervene must be filed on or before October 9, 2015. If  
28 representation by counsel is required by Arizona Supreme Court Rule 31, intervention  
will be conditioned upon the intervenor obtaining counsel to represent the intervenor.

**ADA/Equal Access Information**

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator, Shaylin Bernal, E-mail SABernal@azcc.gov, voice phone number 602-542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that **Liberty shall, by August 28, 2015, send** a copy of the above notice to each current customer by first class U.S. mail and have the above notice **published** in a newspaper of general circulation in its service territory.

IT IS FURTHER ORDERED that **Liberty shall, by September 18, 2015, file certification of mailing and publication** of the above notice.

IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and publication, notwithstanding the failure of an individual to read or receive the notice.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized Communications) applies to this proceeding and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules 31, 38, and 42 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.<sup>3</sup>

IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled for discussion unless counsel has previously been granted permission to withdraw by the Administrative Law Judge or the Commission.

IT IS FURTHER ORDERED that the time periods specified herein shall not be extended pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

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<sup>3</sup> If a corporation is not represented by an attorney authorized to practice law in Arizona in a proceeding before the Commission, an officer of the corporation may represent the entity as long as the board of directors has authorized such person to represent it in the matter and such representation is not the person's primary duty to the entity, but secondary or incidental to other duties relating to the management or operation of the entity, and such person is not receiving separate or additional compensation for such representation. See Arizona Supreme Court Rule 31(d)(13). The Commission requires entities to docket evidence of board authorization.

1 IT IS FURTHER ORDERED that, as permitted under A.A.C. R14-3-107(B), **each party to**  
2 **this matter may opt to receive service of all filings in this docket, including all filings by parties**  
3 **and all Procedural Orders and Recommended Opinions and Orders/Recommended Orders**  
4 **issued by the Commission's Hearing Division, via email sent to an email address provided by**  
5 **the party rather than via U.S. Mail. To exercise this option, a party shall:**

- 6 1. Ensure that the party has a valid and active email address to which the party has  
7 regular and reliable access ("designated email address");
- 8 2. Complete a Consent to Email Service form, available on the Commission's website  
9 ([www.azcc.gov](http://www.azcc.gov));
- 10 3. File the original and 13 copies of the Consent to Email Service form with the  
11 Commission's Docket Control, also providing service to each party to the service list;
- 12 4. Send an email, containing the party's name and the docket number for this matter, to  
13 [HearingDivisionServicebyEmail@azcc.gov](mailto:HearingDivisionServicebyEmail@azcc.gov) from the designated email address, to  
14 allow the Hearing Division to verify the validity of the designated email address;
- 15 5. Understand and agree that service of a document on the party shall be complete upon  
16 the sending of an email containing the document to the designated email address,  
17 regardless of whether the party receives or reads the email containing the document;  
18 and
- 19 6. Understand and agree that the party will no longer receive service of filings in this  
20 matter through First Class U.S. Mail or any other form of hard-copy delivery, unless  
21 and until the party withdraws this consent through a filing made in this docket.

22 IT IS FURTHER ORDERED that a party's consent to email service shall not become  
23 effective until a Procedural Order is issued approving the use of email service for the party. The  
24 Procedural Order shall be issued only after the party has completed steps 1 through 4 above, and the  
25 Hearing Division has verified receipt of an email from the party's designated email address.

26 IT IS FURTHER ORDERED that a party's election to receive service of all filings in this  
27 matter via email does not change the requirement that all filings with the Commission's Docket  
28 Control must be made in hard copy and must include an original and 13 copies.



1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
3 hearing.

4 DATED this 31<sup>st</sup> day of July, 2015.

5  
6   
7 SASHA PATERNOSTER  
8 ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered  
10 this 31<sup>st</sup> day of July, 2015 to:

11 Jay L. Shapiro  
12 SHAPIRO LAW FIRM, P.C.  
13 1819 E. Morten Avenue, Suite 280  
14 Phoenix, AZ 85020  
15 Attorney for Liberty Utilities

Janice Alward, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

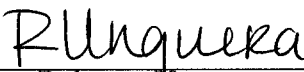
14 Todd C. Wiley  
15 LIBERTY UTILITIES  
16 12725 W. Indian School Road, Suite D-101  
17 Avondale, AZ 85392

Thomas Broderick, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

16 Daniel W. Pozefsky  
17 Chief Counsel  
18 Residential Utility Consumer Office  
19 1110 W. Washington, Suite 220  
20 Phoenix, AZ 85007

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23 By:   
24 Rebecca Unquera  
25 Assistant to Sasha Paternoster  
26  
27  
28